eIN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP NO.13327 of 2006

DATE OF DECISION: December 5,2006

Ravneet Kaur and others

….Petitioners

VERSUS

State of Punjab and others

….

Respondents

CORAM:- HON'BLE MR. JUSTICE VINEY MITTAL
HON'BLE MR. JUSTICE H.S. BHALLA

PRESENT: Shri B.R.Mahajan, Advocate for the petitioners.
Shri Sukhdip Singh Brar, Additional Advocate General, Punjab for respondents No.1 to 5.
Shri Tarun Gupta, Advocate for
Shri Anupam Gupta, Advocate for respondent No.6.

Viney Mittal,J.

This order shall dispose of two petitions being CWP No.13327 of 2006 and CWP No.13328 of 2006, as common questions of facts and law are involved in both the petitions.

For the sake of convenience, the facts are borrowed from CWP No.13327 of 2006.

The petitioners are students of 4th year of B.Sc Nursing Course of Govt. Nursing College, Rajindra Hospital, Patiala. The said institute is a Government institution. The petitioners had taken admission in the said course in November 2003. According to the petitioners, when the petitioners had taken admission in the said course, they were not required to pay any hostel feel. Later on, another notification dated June 15, 2006, Annexure P.8, has been

issued by the State Government, whereby the earlier notification dated July 29,2003, Annexure P.2, has been amended and the students of Government Colleges as well as private Colleges have been required to pay same hostel fee. According to the petitioners, the aforesaid amendment dated June 15, 2006 is not retrospective in nature but could only be applied prospectively and as such the petitioner could be required to pay hostel fee for the remaining duration of the course i.e. for the academic session starting after the issuance of the notification dated June 15, 2006. The grievance of the petitioner is against a notice dated August 10,2006, Annexure P.9, whereby the Principal of the College, respondent No.3 has required the students to deposit the hostel fee for the years 2003-04. It is in these circumstances that the petitioners have approached this Court through the present writ petition.

The claim of the petitioners has been contested by the respondents. A written statement has been filed on behalf of respondents No.1 to 5. The demand of the hostel fee from the petitioners through notice, Annexure P.9, has been justified. It has been maintained that at no point of time any understanding was given to the petitioners that the hostel accommodation was available to them free of charges. The respondents have maintained that since the petitioners had only deposited the tuition fee and no hostel fee including the electricity and water charges etc. have been paid, therefore, they were liable to pay the aforesaid charges also.

We have heard the learned counsel for the parties and have also gone through the record of the case.

Shri B.R.Mahajan, the learned counsel appearing for the petitioners has vehemently contended that at no point of time when the petitioners had taken admission in B.Sc Nursing Course of Govt. Nursing College, Rajindra Hospital, Patiala, a notification dated July 29,2003 (Annexure P.2) was in operation and as per the aforesaid notification students of Government Nursing College were not required to pay any hostel fee. Shri Mahajan has also pointed out that the aforesaid notification, Annexure P.2, had been amended vide another notification dated June 15, 2006, Annexure P.8 and it was only through the aforesaid amendment that the students of the Government College have also been required to pay the hostel charges. In these circumstances, the learned counsel maintains that since the notification Annexure P.8 could only operate prospectively, therefore, for the earlier years 2003,2004 and 2005, no demand could have been raised from the petitioners with regard to the hostel charges and, therefore, the demand notice, Annexure P.9, making a demand in this regard, was wholly unjustified and was liable to be set aside.

On the other hand, Shri Sukhdip Singh Brar, the learned Additional Advocate General, Punjab has argued that the petitioners had taken admission in Nursing College, Rajindra Hospital, Patiala on their own merit and as per their own choice. Although, they had paid the tuition charges at the time of admission and thereafter but had not paid any hostel fees, including the electricity and water charges, although they had enjoyed hostel facilities. The learned counsel maintains that the hostel facility to a student admitted in B.Sc Nursing Course was optional and it was not compulsory for a student to live in hostel. Shri Brar has also maintained that at no point of

time the petitioners had ever been given any understanding, nor the notification (Annexure P.2) ever so mentioned, that the petitioners were to have a free accommodation in the hostel, where they were also to enjoy free electricity and water facilities.

Although, Shri B.R.Mahajan, the learned counsel appearing for the petitioners has maintained that it was mandatory for a student studying in B.Sc Nursing Course to live in hostel but the aforesaid fact was disputed by Shri Sukhdip Singh Brar, the learned Additional Advocate General, Punjab appearing for the respondents, then on instructions from some of the petitioners, who were present in Court, Shri Mahajan has also conceded that it was merely optional for a student admitted in B.Sc Nursing Course either to live in hostel or stay to outside in a private accommodation.

After hearing the learned counsel for the parties and taking into consideration the facts and circumstances of the case, we find that the grievance made by the petitioners is wholly unjustified. It is not in dispute that the petitioners were admitted in B.Sc Nursing Course of Govt. Nursing College, Rajindra Hospital, Patiala in November 2003. They have been enjoying the hostel accommodation, including the electricity and water facilities. It is also not in dispute that no charges whatsoever have been paid by the petitioners for the hostel accommodation and for the water and electricity facilities. There is absolutely no warrant in the notification, Annexure P.2, that the aforesaid accommodation was to be allotted free of any charges to the students of Government Colleges. Although the notification, Annexure P.2, does recite the hostel fee and security advance from private colleges but it does not

mention at all that the students of Government Colleges were to enjoy the said hostel accommodation and electricity and water charges without any charges. As a matter of fact, we find that the notification, Annexure P.8, is in the nature of clarification when an ambiguity in the notification, Annexure P.2, has been removed and the words "private college" in the notification, Annexure P.2, have been deleted.

In view of the aforesaid facts, we find no merit in the present petition and the same is dismissed.

(Viney Mittal)
Judge

December 5, 2006
KD

(H.S. Bhalla)
Judge